

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 03-cr-035-01-JD

Felix Rosario

O R D E R

In December of 2003 the defendant was sentenced to a term of forty-two months imprisonment. In April of 2004 he filed a motion requesting a judicial recommendation for participation in the Bureau of Prisons' Intensive Confinement Center Program. The court issued an amended procedural order recommending to the BOP that the defendant be placed in the program "if he is determined eligible and at an appropriate time." The defendant was accepted into the program on November 2, 2004, but his actual transfer into the program was held in abeyance due to the lack of bed space. On January 7, 2005, he was notified that his transfer was denied because the program was closed.

The decision to close the program rests within the sound discretion of the BOP. The termination of the program has not adversely affected the defendant's sentence calculations on the good time credit or projected release date. The closure of the program has had the affect of altering his conditions of confinement and delaying his entry into a federal halfway house.

However, those consequences naturally follow from the BOP's decision to terminate the program which it has the discretion to do. The court has no authority to alter that decision or to provide for another remedy for the program.

The defendant's motion is denied.

SO ORDERED.

Joseph A. DiClerico, Jr.
United States District Judge

June 27, 2005

cc: Felix Rosario, pro se
Joseph N. Laplante, Esquire
U.S. Probation
U.S. Marshal